

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE SEALS,

Plaintiff,

v.

Case No. 20-11272

WAYNE COUNTY EMPLOYEES'
RETIREMENT SYSTEM,

Sean F. Cox
United States District Court Judge

Defendant.

_____ /

ORDER DENYING
DEFENDANT WAYNE COUNTY EMPLOYEES' RETIREMENT SYSTEM'S
RULE 60(B) MOTION FOR LACK OF JURISDICTION

Plaintiff's § 1983 First Amendment retaliation claim against Defendant Wayne County Employee Retirement System ("Defendant") proceeded to a jury trial in this case and the jury reached a verdict in favor of Plaintiff. A final judgment was entered and Defendant filed a Notice of Appeal. That appeal is currently pending in the United States Court of Appeals for the Sixth Circuit.

Nevertheless, on October 4, 2024, Defendant filed a "Rule 60(b)(2) Motion To Vacate The Judgment" in this Court. (ECF No. 169).

The "filing of a notice of appeal operates to transfer jurisdiction of the case to the court of appeals, and the district court is thereafter without jurisdiction to grant a motion under Fed. R. Civ. P. 60(b)." *Pickens v. Howes*, 549 F.3d 377, 383 (6th Cir. 2008).

Accordingly, **IT IS ORDERED** that Defendant's Rule 60(b) Motion is **DENIED FOR LACK OF JURISDICTION**. *Pickens, supra*; see also *Brown v. MacLaren*, 2017 WL 5438883

at *2 (6th Cir. 2017) (Ruling district court properly dismissed Rule 60(b) motion for lack of jurisdiction where the motion was filed in the trial court after the notice of appeal); *Russell v. Warden North Central Corr. Inst'n*, 2017 WL 4083722 at *2 (6th Cir. 2017) (Explaining that a district court can simply deny a Rule 60(b) motion for lack of jurisdiction when the motion is filed after an appeal has been perfected.).¹

IT IS SO ORDERED.

Dated: November 27, 2024

s/Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on November 27, 2024, the document above was served on counsel and/or the parties of record via electronic means and/or First Class Mail.

s/Jennifer McCoy
Case Manager

¹Defendant did not seek an indicative ruling from this Court, under Fed. R. Civ. P. 62.1. And even if Defendant had done so, based upon its review of the substance of the motion, this Court would not be inclined to grant the motion.